

FISCAL NOTE

HB 2444 - SB 2664

February 1, 2002

SUMMARY OF BILL:

- Prohibits a dealer within this state from selling, offering for sale, or giving to a consumer a non-returnable container or a beverage in a non-returnable container, or in any container for which a deposit of \$0.10 per container has not been collected.
- Requires a dealer who regularly sells beverages for consumption off the dealer's premises to provide a convenient means whereby a person may return such a container and be refunded, in cash, the deposit paid on such container. The means by which to return the container and be refunded the deposit must be on, or within 100 yards of, the premises on which the dealer sells beverages in returnable containers. The return and refund provisions would apply even if the particular container being returned were not purchased from the dealer to whom it is being returned.
- Authorizes the establishment of regional centers for the redemption of returnable containers in addition to, but not as substitutes for, return locations as described above.
- A dealer who does not require a deposit on a returnable container when the contents are consumed in the dealer's sale or consumption area would not be required to pay a refund for accepting that empty container.
- Requires a distributor to accept from a dealer any empty returnable container that is sold or offered for sale by that distributor and to pay to the dealer the full refund value in cash if such container is a returnable container that was originally sold in this state as a filled returnable container.
- A beverage container sold or offered for sale by a dealer within this state must clearly indicate by embossing or by stamp, label or otherwise securely affixed to the beverage container, the refund value of the container and the name of this state.
- A dealer or distributor may, but is not required to, refuse to accept from a person an empty returnable container which does not state a refund value and the name of this state; however, this provision would not apply to a refillable container having a refund value of less than 10 cents, with a brand name permanently marked on it and with a securely affixed method of indicating that it is a returnable container.
- A dealer, distributor, or manufacturer could not return a container to a dealer for a refund if the dealer had already refunded the deposit on that container, this would not prohibit a dealer from refunding the deposit on an empty container each time the container is sanitized by the manufacturer and reused as a beverage container.
- A dealer may, but would not be required to, accept empty returnable containers for a refund in excess of \$25.00 on a given day.
- A manufacturer would be required to refund the deposit paid on any container returned by a distributor if a distributor has paid a deposit to the manufacturer.
- *VIOLATIONS*
 - Except as provided below, a person, dealer, distributor or manufacturer who violates the provisions of this bill would be subject to a fine of \$100 to \$1,000 and would be liable for the costs of prosecution. Each day a violation occurs would be considered a separate offense.
 - Prohibits a person from returning or attempting to return to a dealer for a refund, a beverage container that the person knows or should know was not purchased in this state as a filled returnable container; or did not have a deposit paid for it at the time of purchase. A person who violates either of these provisions would be ordered to pay restitution for the amount equal to the loss

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caused by such violation and would be subject to one of the following: (1) If returning more than 25 but not more than 100 non-returnable containers, the person would commit a Class B misdemeanor, punishable by a maximum fine of \$100; or (2) If returning more than 100 non-returnable containers or if in violation of (1) for a second or subsequent time, the person would commit a Class B misdemeanor, punishable by a maximum fine of \$500.

- Requires a dealer to post a notice, in that portion of the dealer's premises where returnable containers are redeemed, warning persons of the consequences of returning non-returnable containers. A dealer who fails to comply with the above described notice requirement would be guilty of a Class C misdemeanor subject to only a fine of no more than \$50.00.

ESTIMATED FISCAL IMPACT:

Decrease State Revenues - \$5,116,620

Decrease Local Govt. Revenues - \$115,848

Other Fiscal Impact - Local governments would no longer receive a distribution of funds from the Department of Transportation for litter control resulting in a decrease in revenues and expenditures, both estimated at \$4,400,000.

Based on current law enactment of bottle deposit legislation would cause that portion of the wholesale tax on beer and bottler's gross receipts tax earmarked for litter control to be eliminated.

Estimate assumes the following based on information provided by the Department of Revenue:

- Beer barrelage tax collections earmarked were \$1,987,000 in state revenues in FY 2001.
- Bottlers' gross receipts tax collections earmarked were \$2,840,000 in state revenues in FY 2001.
- A decrease in sales tax revenue which assumes that reduced tax rates would be reflected in the retail price is calculated as follows:
 - Decreased State Sales Tax Revenues \$289,620
[(\$1,987,000+\$2,840,000)X 6% State Rate]
 - Decreased Local Government Sales Tax Revenues \$115,848
[(\$1,987,000+\$2,840,000) X 2.4% Average Local Rate]

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James A. Davenport, Executive Director